

**COURT OF APPEALS
DECISION
DATED AND FILED**

April 16, 2013

Diane M. Fremgen
Clerk of Court of Appeals

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

**Appeal No. 2012AP577
STATE OF WISCONSIN**

Cir. Ct. No. 2004CF343

**IN COURT OF APPEALS
DISTRICT III**

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

V.

JOSHUA BERT SHERIN,

DEFENDANT-APPELLANT.

APPEAL from an order of the circuit court for St. Croix County:
EDWARD F. VLACK, III, Judge. *Affirmed.*

Before Hoover, P.J., Mangerson, J., and Thomas Cane, Reserve
Judge.

¶1 PER CURIAM. Joshua Sherin, pro se, appeals an order denying his request for mandamus relief and granting the State's request to enforce protective orders. Sherin argues the circuit court was biased against him and erred by

enforcing the protective orders. We reject Sherin’s arguments and affirm the order.

BACKGROUND

¶2 In 2004, the State charged Sherin with first-degree sexual assault of a child, exposing genitals to a child, two counts of child enticement, and four counts of failing to provide required information as a registered sex offender—the sexual assault and child enticement counts as a persistent repeater. The court granted Sherin’s motion to dismiss one of the child enticement counts as multiplicitous. In exchange for his no contest pleas to an amended charge of second-degree sexual assault of a child and one count of failing to provide information as a registered sex offender, the State agreed to dismiss and read in the remaining counts. The court imposed consecutive sentences resulting in a thirty-five-year term, consisting of seventeen years’ initial confinement followed by eighteen years’ extended supervision. Sherin did not pursue a direct appeal of his conviction.

¶3 In July 2011, Sherin filed a “Motion and Injunction for Return of Defendant’s Legal Materials.” When the circuit court responded that Sherin’s request was a Department of Corrections issue, Sherin filed a “Motion for Reconsideration and ... Motion for Writ of Mandamus.” Sherin alleged that the DOC seized medical and school records pertaining to his victim and that these records constituted “legal materials” he was entitled to possess under the Wisconsin Administrative Code. The State subsequently moved the circuit court to enforce protective orders. The circuit court denied Sherin’s request for mandamus relief and granted the State’s motion to enforce protective orders. The court also prohibited any further disclosure of the records to Sherin, his current or

former attorney or any other person “without specific written order” of the court. This appeal follows.

DISCUSSION

¶4 As an initial matter, we note that although Sherin’s notice of appeal purports to seek review of the denial of his request for mandamus relief, his reply brief insists “[t]his issue is moot.” Because Sherin has effectively abandoned this issue on appeal, we need not address it. *See State v. Flynn*, 190 Wis. 2d 31, 39 n.2, 527 N.W.2d 343 (Ct. App. 1994) (issue raised but not briefed or argued is deemed to be abandoned). Even were we to review it on the merits, we would affirm that part of the circuit court’s order for the reasons outlined in the State’s brief. Sherin failed to comply with the Prisoner Litigation Reform Act and has not demonstrated how the subject documents are relevant to any possible WIS. STAT. § 974.06 (2011-12), proceedings he may pursue.

¶5 To the extent Sherin contends the circuit court was biased against him, there is nothing in the record to suggest judicial bias or prejudice against Sherin. Although Sherin contends that the ruling against him evinces a “get tough on sex offenders” stance, “judicial rulings alone almost never constitute a valid basis for a bias or partiality motion.” *Liteky v. United States*, 510 U.S. 540, 555 (1994).

¶6 Turning to the court’s enforcement of the protective orders, decisions regarding protective orders are reviewed under the erroneous exercise of discretion standard. *See Hegarty v. Beauchaine*, 2006 WI 248, ¶37, 297 Wis. 2d 70, 727 N.W.2d 857. The 2005 protective order regarding the victim’s school and medical records stated that the records “may be provided to the defendant by [his attorney] in a private room at the St. Croix County Jail where the defendant may

review said records, returning said records in a sealed envelope to the St. Croix County Jail staff.” The order further mandated that defense counsel retrieve the records from the jail within twenty-four hours.

¶7 In granting the State’s motion to enforce the protective orders, the court recounted that the orders struck a balance between the rights of the child victim and Sherin’s right to present a defense. Sherin provides no reasonable justification for shifting that balance now. The order remains appropriate in light of Sherin’s criminal history and his failure to demonstrate how the records are relevant to any postconviction proceedings he may pursue.

By the Court.—Order affirmed.

This opinion will not be published. See WIS. STAT. RULE 809.23(1)(b)5. (2011-12).

